

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Public Services– Unauthorized encroachment / grabbing of Rajupeta Garbage Dumping yard land of Machilipatnam Municipality – Departmental proceedings under Rule-20 of APCS (CC&A) Rules, 1991 against Sri M.Ramachandram, the then TPO, Machilipatnam Municipality –Imposing the punishment of 5% cut in pension for a period of two(2) years against him under first proviso to Rule 9(i) of AP Revised Pension Rules, 1980 – Orders – Issued.

MUNICIPAL ADMINISTRATION & URBAN DEVELOPMENT (Vig-III) DEPARTMENT

G.O.RT.No. 931

Dated:02.12.2014

Read the following:-

1. From the GA (V&E) Dept Alert Note No.63 (1306/V&E/D1/06) Dt:25.08.2006
2. G.O.Rt.No. 784, MA&UD(E1)Dept., dt.20.6.2007
3. G.O.Rt.No.536, MA & UD (E1) Dept, dt.15.05.2010.
4. Govt Memo No.19868/E1/2006, MA&UD(E1) Dept Dated:15.5.2010
5. From Sri K.Srinivasa Prasad.Dy Director, Town Planning Machilipatnam and Enquiry Officer, Report Dt.08.06.2011
6. Government Memo No. 19868/E1/2006, MA&UD(E1) Dept Dated.17.10.2011
7. From the DT&CP, A.P.Hyderabad Lr Roc.NO.11799/2006/V.Cell, Dt:24.11.2011
8. From Hon'ble APAT, Hyderabad orders dt.31.7.2012 in O.A.No.2360/2011
9. A.P Gazette Notification No.490, Dt;04.09.2012
10. From Hon'ble AP High Court, Hyderabad order dt:21.03.2014 in WP.No.39395/2012.
11. Government letter No. 19868/Vig.III.1/2006, MA&UD(Vig-III) Dept., dt. 17.09.2014.
12. From the Secretary, APPSC, Hyderabad letter No. 1125/RT/2/2014, dt. 29.10.2014.

ORDER:

After examination of the GA (V&E) Dept. findings and recommendations submitted by V&E vide reference 1st read above, Government have framed charges against Sri M.Ramachandram, TPO., (Retd), Machilipatnam Municipality & others. Government after examination of the WSD submitted by the C.O, have appointed Sri K. Srinivasa Prasad, DTCP., as Enquiry Officer and Smt A.Bhagyavathi, Dy. City Planner, the then Municipal Corporation of Hyderabad as Presiding Officer-vide G.O 3rd read above and Memo 4th read above respectively. Sri K.Srinivasa Prasad, Dy. Director & Enquiry Officer O/o the DTCP, Hyderabad after conducting enquiry, has submitted his enquiry report 5th read above stating that out of three charges against Sri M.Ramachandram, TPO., (Retd), Machilipatnam Municipality, one charge was held proved, one charge held partly proved and one charge is not proved.

2. Government after examination of the Enquiry Report, accepted the findings of the Enquiry Officer and a copy of the enquiry report has been issued to the charged officer Sri M.Ramchandram, TPO. (Retd) with a direction to submit his written representation on the findings of E.O. and proposed a penalty of 5% cut in his pension for two years within (15) days, under Rule 9 of APRPR, 1980 vide Govt Memo No.19868/E1/2006-6, Dt:29.06.2012. The Director of Town & Country Planning, A.P., Hyderabad was requested to furnish the served copy.

3. In its order 8th read above, the Hon'ble APAT, vide order dt.31.7.2012 in O.A.No.2360/2011 filed by Sri M.Ramachandram, the then TPO, has set aside charge memos issued vide G.O.Rt.No.784, MA, dt.20.6.2007 against the C.O.

4. The Director of Town & Country Planning, A.P., Hyderabad in his letter 7th read above, has stated that the same was returned with an endorsement over the postal cover as "UNCLAIMED". Accordingly, in the Govt Memo dt:29-6-12 Government have requested the Commissioner, Printing, Stationery and Stores Purchase, Hyderabad to publish the show cause notice in A.P Gazette in respect of Sri M.Ramachandram, Town Planning Officer (SG) (Retired) and furnish the same to Government. In the reference 9th read above, the said SCN was published in A.P. Gazette.

5. As directed by the Government, the Director of Town & Country Planning, A.P., Hyderabad has filed W.P before the Hon'ble High Court of A.P in W.P.39395/2012, pleading for suspension of the orders of Hon'ble APAT dated.31.07.2012 in O.A.No.2360/2010 and C.A.No.1795 of 2012 in O.A.No.2360 of 2011.

6. In its order 10th read above, the Hon'ble AP High Court at Hyderabad in its order dt:21.03.2014 in WP.No.39395/2012 filed by the Govt has disposed of the case as follows:

"..... we are also of the opinion that the conduct of the charged officer is worth mentioning in the present context. The 1st respondent, despite working in GHMC at L.B.Nagar Circle, cannot be said to have failed to gain knowledge as to the allegations leveled against him and six others. The very fact that he approached the vigilance Cell of GHMC on 28-12-2010 and 29-12-2010 and obtained memos itself would reflect his conduct for the reason that he retired from service on 31-03-2008, but approached the Vigilance Cell of GHMC on 28-12-2010 and again on 29-10-2012. In ordinary circumstances, a man of ordinary prudence would not maintain silence when his retrial benefits were withheld and pension was not sanctioned for such a long length of time i.e., nearly 2 years 9 months. What can be gathered from that silence on the part of the 1st respondent is that unless he entertained some oblique motive to gain undue advantage, he would not have maintained silence. It is not his case that he made an attempt to get the sanction of pension and retrial benefits prior to 28-12-2010. It is clear from the record that in the disciplinary action initiated in G.O.Rt.No.784, dated:20-06-2007, the 1st respondent attended the enquiry regularly and submitted his defence before the Enquiry Officer without objecting to the charge memo on the ground that it was served on him subsequent to his retirement and having maintained silence and taking part in the enquiry, he approached the Tribunal, only after conclusion of the enquiry anticipating that the charges are likely to be established against him. It is also stated that the charges framed against him were held to be proved and when a communication was sent along with a copy of the enquiry report, the same was also returned undelivered and even the show cause notice issued by the Government vide Memo No.19868/E1/2006-6, dated:29-06-2012, proposing imposition of 5% cut in pension for two years, sent for communication was also returned undelivered, and, therefore, the Government was compelled to send the same for gazette publication vide Memo.No.19868/E1/06, dated:31-06-2012. In fact, by the date of show cause notice in Memo No.19868/E1/2006-6, dated:29-06-2012, the O.A was still pending, since it was allowed only on 31-07-2012, which order is impugned in this writ petition. Without bringing the same to the notice of the Tribunal and awaiting orders of the Tribunal, it appears, the 1st respondent avoided to receive the Government Memo dated:29-06-2012.

For the aforesaid reasons, we are of the considered opinion that the impugned order of the Tribunal is liable to be set aside.

Accordingly, the writ petition is allowed and the impugned order passed by the Tribunal is set aside. There shall be no order as to costs.

As a sequel thereto, Miscellaneous, petitions, if any, pending in this writ petition stand disposed of".

7. Government after careful examination of matter consider that since no representation has been received from the retired C.O., for the above show cause notice Published in the AP Gazette dt: 04.09.2012, final orders are to be passed duly obtaining the concurrence of APPSC.

8. Accordingly, in the reference 11th read above, Government have addressed the APPSC, Hyderabad for their concurrence to the proposal to impose penalty of 5% cut in his pension for a period of two(2) years against Sri M.Ramachandram, TPO., (Retd), Machilipatnam Municipality in terms of Rule 9 of APRPR,1980.

9. In the reference 12th read above, the Secretary, APPSC has conveyed their concurrence and agreed with the above Government proposal.

10. Government after careful consideration of the matter hereby impose a penalty of 5% (five percent) cut in pension for a period of two(2) years against Sri M.Ramachandram, TPO., (Retd), Machilipatnam Municipality under first proviso to Rule 9(i) of AP Revised Pension Rules, 1980.

11. The Director of Town & Country Planning, A.P., Hyderabad shall take necessary action in the matter accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Dr.D.SAMBASIVA RAO
PRINCIPAL SECRETARY TO GOVERNMENT

To

Sri M.Ramachandram, TPO., (Retd), Machilipatnam Municipality
(through the DT & CP, A.P., Hyderabad)

The Director of Town & Country Planning, A.P., Hyderabad

Copy to:

The Commissioner & Director of Municipal Administration A.P., Hyderabad

The Secretary, A.P. Vigilance Commission, Hyderabad

The General Administration (V&E) Department.

The Secretary , A.P.Public Service Commission, Hyderabad.

The Principal Accountant General (A&E) AP Hyderabad.

The Regional Director of Municipal Administration, Rajahmundry.

The Government Pleader for MA&UD (Services), A.P.A.T, Hyderabad.

Sc/sf

// FORWARDED : BY ORDER //

SECTION OFFICER